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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,121	12/11/2003	Frank R. Chiappetta	893.0012USU	7885
47545	7590	01/17/2006	EXAMINER	
STEVEN A. GARNER, ESQ. CONAIR CORPORATION ONE CUMMINGS POINT ROAD STAMFORD, CT 06902			SOOHOO, TONY GLEN	
			ART UNIT	PAPER NUMBER
			1723	

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/733,121	Applicant(s) CHIAPPETTA, FRANK R.	
	Examiner Tony G. Soohoo	Art Unit 1723	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, longitudinal axes of the handle, and the knob, and the blade member of claims 22-25. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 22-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification fails to provide original basis for a “knob”, the axis of the handle not parallel to the longitudinal axis of the driven shaft and the processing tool being a blending blade. Claims 22-25 has presented subject matter which is deemed as incorporating new matter into the disclosure.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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5. Claim 21 rejected under 35 U.S.C. 102(a) as being anticipated by Lam US 2003/0106175.

6. The Lam reference (newly cited) discloses a motor 2, a switch 10, a shaft with coupling 26 a driven shaft at 24 and o-ring bearing seals 23 and 25 providing a hermetical seal in the interior of the section of 24 of the blending tool 19, 22, 18. It is noted that it is old and well known in the art that bristles may cause an effect and operation of blending. See the cited references on form 982 to Fitzhugh 3425087 and 3472490.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 22, and 24-25 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Lam US 2003/0106175 in view of Spect 6446294 (both newly cited).

The Lam reference (newly cited) discloses all of the recited subject matter as defined within the scope of the claims with the exception of the handle having a knob and relative axis of the knob to the handle and driven shaft.

The Spect reference discloses an electric driven tool with a driven shaft 20, 60 and having a handle 6, 10 extending no parallel to the driven shaft axis, and a knob 28 which extends generally perpendicular to the axis of the driven shaft.

In view of the showing of the Spect reference to the use of a type of handle housing which has a knob and handle axes in the electric tool, it is deemed that it would have been obvious to one of ordinary skill in the art to modify the handle housing of the Lam reference to have a handle and knob in such a relationship to the driven electric tool such that it may be operated more effectively in manipulation.

9. Claims 21-25 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Bruno et al 6186056 in view of Calange 6193404.

The Bruno (et al) reference (newly cited) discloses a motor and housing M, a tube body 2, a driven shaft 9, a 1st drive shaft and coupling 12, 11, a processing tool blade 7, and seals 21 and 20 at each end of the driven shaft.

The Bruno reference discloses all of the recited subject matter as defined within the scope of the claims with the exception of the motor housing being shown having a handle and with a knob as recited in claims 22, 24-25.

Calange discloses a 1st motor body housing 3 with plural handles portions 4 which portions may be called a handle and knob that is perpendicular to the handle for grasping the electric processing tool.

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In view of the teaching by Calange, it is deemed that it would have been obvious to one of ordinary skill in the art to provide for the motor housing M of the Bruno et al reference with a handle and knob at an angle to the driven shaft and perpendicular to one another so that it may be more easily grasped.

Response to Arguments

10. Applicant's arguments with respect to newly presented claims 21-24 have been considered but are moot in view of the new ground(s) of rejection. Applicant has cancelled all previous claims 1-20.

Conclusion

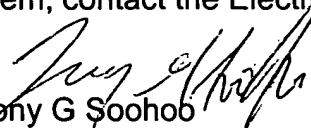
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fitzhugh 3425087 and 3472490 shows examples that bristles may operate to blend materials. Ruttimann 5366286 also shows a knob on the handle of a processing tool, figure1, element 2. Kaufman 2804290 and Norris 3666187 shows a driven agitator in a tube sleeve coupled to a driving motor and housing.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony G. Soohoo whose telephone number is (571) 272 1147. The examiner can normally be reached on 7-5PM, Tue-Fri.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tony G Soohoo
Primary Examiner
Art Unit 1723
